



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

■  
Docket No: 0793-22

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the statute of limitations was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 25 May 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). The Board also considered an advisory opinion (AO) from a qualified mental health professional dated 29 March 2022, which was previously provided to you.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 31 July 1978. Your record shows that you have two separate periods of unauthorized absence, from 1 April 1980 to 5 April 1980 and from 5 Jun 1980 to 24 June 1980, totaling 23 days. On 22 April 1981, you were issued an

administrative remarks (Page 13) counseling informing you that a continuation of your past performance and conduct may ultimately disqualify you from receiving an Honorable discharge. The Page 13 further stated that if your behavior does not improve, you may be recommended for an administrative discharge from the naval service. On 14 July 1981, you were informed that you were not eligible for reenlistment due to your overall evaluation average and were being assigned an RE-4 reenlistment code. Your final conduct average was 2.9.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated from the Navy on 14 July 1981, with a "General (Under Honorable Conditions)," characterization of service, your narrative reason for separation is "Physical Condition, Not a Disability, Interfering with Performance of Duty," your separation code is "KFV," and your reenlistment code is "RE-4."

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 29 March 2022. The AO stated in pertinent part:

The Petitioner's complete service performance and medical records were not available for review. Among the available documents, there is no evidence that he was diagnosed with a mental health condition during military service. He has provided no post-service documents in support of his claims. His personal statement is not sufficiently detailed to establish a clinical diagnosis or a nexus with the circumstances related to his discharge. Additional records (e.g., the Petitioner's service medical record or post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) are required to render an alternate opinion.

The AO concluded, "[b]ased on the available evidence, it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that the circumstances surrounding his separation could be attributed to PTSD."

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your desire to upgrade your discharge character of service and contention that you have since your discharge made corrective measures and you are no longer affected from your previous condition. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. In making this finding, the Board relied on the presumption of regularity and determined your conduct scores were insufficient to qualify for a fully Honorable

characterization of service. The Board noted that characterization of service is based in part on conduct marks assigned on a periodic basis. At the time of your service, a conduct mark average of 3.0 was required to be considered for a fully Honorable characterization of service. Based on these factors, the Board concluded your General (Under Honorable Conditions) characterization of service remains appropriate as issued. Finally, the Board concurred with the AO in that there is insufficient evidence that the circumstances surrounding your separation could be attributed to PTSD. Therefore, after applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

6/13/2022

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Executive Director

Signed by: █